

111TH CONGRESS
1ST SESSION

H. R. 1665

To structure Coast Guard acquisition processes and policies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2009

Mr. CUMMINGS (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. LoBIONDO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To structure Coast Guard acquisition processes and policies,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Coast Guard Acquisition Reform Act of 2009”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—RESTRICTIONS ON THE USE OF LEAD SYSTEMS INTEGRATORS

Sec. 101. Procurement structure.

TITLE II—COAST GUARD ACQUISITION POLICY

- Sec. 201. Operational requirements.
- Sec. 202. Required contract terms.
- Sec. 203. Life-cycle cost estimates.
- Sec. 204. Test and evaluation.
- Sec. 205. Capability standards.
- Sec. 206. Acquisition program reports.
- Sec. 207. Undefined contractual actions.
- Sec. 208. Guidance on excessive pass-through charges.
- Sec. 209. Acquisition of major capabilities: Alternatives analysis.
- Sec. 210. Cost overruns and delays.
- Sec. 211. Report on former Coast Guard officials employed by contractors to the agency.
- Sec. 212. Department of Defense consultation.

TITLE III—COAST GUARD PERSONNEL

- Sec. 301. Chief Acquisition Officer.
- Sec. 302. Improvements in Coast Guard acquisition management.
- Sec. 303. Recognition of Coast Guard personnel for excellence in acquisition.
- Sec. 304. Enhanced status quo officer promotion system.
- Sec. 305. Coast Guard acquisition workforce expedited hiring authority.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 4 TEES.—The term “appropriate congressional com-
 5 mittees” means the Committee on Transportation
 6 and Infrastructure of the House of Representatives
 7 and the Committee on Commerce, Science, and
 8 Transportation of the Senate.

9 (2) COMMANDANT.—The term “Commandant”
 10 means the Commandant of the Coast Guard.

11 (3) LEVEL 1 ACQUISITION.—The term “Level 1
 12 acquisition” means—

13 (A) an acquisition by the Coast Guard—
 14 (i) the estimated life-cycle costs of
 15 which exceed \$1,000,000,000; or

1 (ii) the estimated total acquisition
2 costs of which exceed \$300,000,000; or

3 (B) any acquisition that the Chief Acquisi-
4 tion Officer of the Coast Guard determines to
5 have a special interest—

6 (i) due to—

7 (I) the experimental or tech-
8 nically immature nature of the asset;

9 (II) the technological complexity
10 of the asset;

11 (III) the commitment of re-
12 sources; or

13 (IV) the nature of the capability
14 or set of capabilities to be achieved; or

15 (ii) because such acquisition is a joint
16 acquisition.

17 (4) LEVEL 2 ACQUISITION.—The term “Level 2
18 acquisition” means an acquisition by the Coast
19 Guard—

20 (A) the estimated life-cycle costs of which
21 are equal to or less than \$1,000,000,000, but
22 greater than \$300,000,000; or

23 (B) the estimated total acquisition costs of
24 which are equal to or less than \$300,000,000,
25 but greater than \$100,000,000.

1 (5) LIFE-CYCLE COST.—The term “life-cycle
2 cost” means all costs for development, procurement,
3 construction, and operations and support for a par-
4 ticular capability or asset, without regard to funding
5 source or management control.

6 **TITLE I—RESTRICTIONS ON THE**
7 **USE OF LEAD SYSTEMS INTE-**
8 **GRATORS**

9 **SEC. 101. PROCUREMENT STRUCTURE.**

10 (a) IN GENERAL.—

11 (1) USE OF LEAD SYSTEMS INTEGRATOR.—Ex-
12 cept as provided in subsection (b), the Commandant
13 may not use a private sector entity as a lead systems
14 integrator for an acquisition contract awarded or de-
15 livery order or task order issued after the end of the
16 180-day period beginning on the date of enactment
17 of this Act.

18 (2) FULL AND OPEN COMPETITION.—The Com-
19 mandant and any lead systems integrator engaged
20 by the Coast Guard shall use full and open competi-
21 tion for any acquisition contract awarded after the
22 date of enactment of this Act, unless otherwise ex-
23 cepted in accordance with Federal acquisition laws
24 and regulations promulgated under those laws, in-
25 cluding the Federal Acquisition Regulation.

1 (3) NO EFFECT ON SMALL BUSINESS ACT.—

2 Nothing in this subsection shall be construed to su-
3 persede or otherwise affect the authorities provided
4 by and under the Small Business Act (15 U.S.C.
5 631 et seq.).

6 (b) EXCEPTIONS.—

7 (1) NATIONAL DISTRESS AND RESPONSE SYS-
8 TEM MODERNIZATION PROGRAM; NATIONAL SECU-
9 RITY CUTTERS 2 AND 3.—Notwithstanding sub-
10 sections (a) and (e), the Commandant may use a
11 private sector entity as a lead systems integrator for
12 the Coast Guard to complete the National Distress
13 and Response System Modernization Program (oth-
14 erwise known as the “Rescue 21” program) and Na-
15 tional Security Cutters 2 and 3.

16 (2) COMPLETION OF ACQUISITION BY LEAD
17 SYSTEMS INTEGRATOR.—Notwithstanding subsection
18 (a), the Commandant may use a private sector enti-
19 ty as a lead systems integrator for the Coast
20 Guard—

21 (A) to complete any delivery order or task
22 order, including the exercise of previously estab-
23 lished options on a delivery order or task order
24 that was issued to a lead systems integrator on
25 or before the date that is 180 days after the

1 date of enactment of this Act without any
2 change in the quantity of capabilities or assets
3 or the specific type of capabilities or assets cov-
4 ered by the order;

5 (B) for a contract awarded after the date
6 that is 180 days after the date of enactment of
7 this Act for acquisition of, or in support of, the
8 HC-130J aircraft, the HH-65 aircraft, or the
9 C4ISR system, if the requirements of sub-
10 section (c) are met with respect to such acqui-
11 sitions;

12 (C) for a contract awarded after the date
13 that is 180 days after the date of enactment of
14 this Act for acquisition of, or in support of,
15 Maritime Patrol Aircraft, if the requirements of
16 subsection (c) are met with respect to such an
17 acquisition; and

18 (D) for the acquisition of, or in support of,
19 additional National Security Cutters or Mari-
20 time Patrol Aircraft, if the Commandant deter-
21 mines that—

22 (i) the acquisition is in accordance
23 with Federal acquisition laws and regula-
24 tions promulgated under those laws, in-

cluding the Federal Acquisition Regulation;
tion;

(ii) the acquisition and the use of a private sector entity as a lead systems integrator for the acquisition are in the best interest of the Federal Government; and

(iii) the requirements of subsection (c) are met with respect to such acquisition.

(3) REPORT ON DECISION-MAKING PROCESS.—

If the Commandant determines under subparagraph (B), (C), or (D) of subsection (b)(2) that the Coast Guard will use a private sector lead systems integrator for an acquisition, the Commandant shall notify in writing the appropriate congressional committees of the Commandant's determination and shall provide a detailed rationale for the determination, at least 30 days before the award of a contract or issuance of a delivery order or task order, using a private sector lead systems integrator, including a comparison of the cost of the acquisition through the private sector lead systems integrator with the expected cost if the acquisition were awarded directly to the manufacturer or shipyard. For purposes of that comparison, the cost of award directly to a

1 manufacturer or shipyard shall include the costs of
2 Government contract management and oversight.

3 (c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—

4 Neither an entity performing lead systems integrator func-
5 tions for a Coast Guard acquisition nor a Tier 1 subcon-
6 tractor for any acquisition described in subparagraph (B),
7 (C), or (D) of subsection (b)(2) may have a financial inter-
8 est in a subcontractor below the Tier 1 subcontractor level
9 unless—

10 (1) the subcontractor was selected by the prime
11 contractor through full and open competition for
12 such procurement;

13 (2) the procurement was awarded by the lead
14 systems integrator or a subcontractor through full
15 and open competition;

16 (3) the procurement was awarded by a subcon-
17 tractor through a process over which the lead sys-
18 tems integrator or a Tier 1 subcontractor exercised
19 no control; or

20 (4) the Commandant has determined that the
21 procurement was awarded in a manner consistent
22 with Federal acquisition laws and regulations pro-
23 mulgated under those laws, including the Federal
24 Acquisition Regulation.

1 (d) RULE OF CONSTRUCTION.—The limitation in
2 subsection (b)(1)(A) on the quantity and specific type of
3 assets to which subsection (b) applies shall not be con-
4 strued to apply to the modification of the number or type
5 of any sub-systems or other components of a vessel or air-
6 craft described in subparagraph (B), (C), or (D) of sub-
7 section (b)(2).

8 (e) TERMINATION DATE FOR EXCEPTIONS.—Except
9 as described in subsection (b)(1), the Commandant may
10 not use a private sector entity as a lead systems integrator
11 for acquisition contracts awarded, or task orders or deliv-
12 ery orders issued, after the earlier of—

13 (1) September 30, 2011; or

14 (2) the date on which the Commandant certifies
15 in writing to the appropriate congressional commit-
16 tees that the Coast Guard has available and can re-
17 tain sufficient acquisition workforce personnel and
18 expertise within the Coast Guard, through an ar-
19 rangement with other Federal agencies, or through
20 contracts or other arrangements with private sector
21 entities, to perform the functions and responsibilities
22 of the lead systems integrator in an efficient and
23 cost-effective manner.

TITLE II—COAST GUARD ACQUISITION POLICY

SEC. 201. OPERATIONAL REQUIREMENTS.

(a) IN GENERAL.—No Level 1 or Level 2 acquisition program may be initiated by the Coast Guard, and no production contract may be awarded for such an acquisition, unless the Commandant has approved an operational requirement for such acquisition.

(b) OPERATIONAL REQUIREMENT FOR ACQUISITION PROGRAMS.—

(1) IN GENERAL.—The Commandant shall establish mature and stable operational requirements for acquisition programs.

(2) ELEMENTS.—Prior to establishing operational requirements under paragraph (1), the Commandant shall—

(A) prepare a preliminary statement of need, a concept of operations, an analysis of alternatives or the equivalent, an estimate of life-cycle costs, and requirements for interoperability with other capabilities and assets within and external to the Coast Guard; and

(B) in preparing the concept of operations under subparagraph (A), coordinate with acquisition and support professionals, requirements

1 officials, operational users and maintainers, and
2 resource officials who can ensure the appro-
3 priate consideration of performance, cost,
4 schedule and risk trade-offs.

5 (c) CONSIDERATION OF TRADE-OFFS.—In estab-
6 lishing operational requirements under subsection (a), the
7 Commandant shall develop and implement mechanisms to
8 ensure that trade-offs among performance, cost, schedule,
9 and risk are considered in the establishment of operational
10 requirements for development and production of a Level
11 1 or Level 2 acquisition.

12 (d) ELEMENTS.—The mechanisms required under
13 this section shall ensure at a minimum that Coast Guard
14 officials responsible for acquisition management, budget,
15 and cost estimating functions have the authority to de-
16 velop cost estimates and raise cost and schedule matters
17 at any point in the process of establishing operational re-
18 quirements for a Level 1 or Level 2 acquisition.

19 **SEC. 202. REQUIRED CONTRACT TERMS.**

20 (a) IN GENERAL.—The Commandant shall ensure
21 that a contract awarded or a delivery order or task order
22 issued for an acquisition of a capability or an asset with
23 an expected service life of 10 years and with a total acqui-
24 sition cost that is equal to or exceeds \$10,000,000 award-

1 ed or issued by the Coast Guard after the date of enact-
2 ment of this Act—

3 (1) provides that all certifications for an end-
4 state capability or asset under such contract, deliv-
5 ery order, or task order, respectively, will be con-
6 ducted by the Commandant or an independent third
7 party, and that self-certification by a contractor or
8 subcontractor is not allowed;

9 (2) requires that the Commandant shall main-
10 tain the authority to establish, approve, and main-
11 tain technical requirements;

12 (3) requires that any measurement of con-
13 tractor and subcontractor performance be based on
14 the status of all work performed, including the ex-
15 tent to which the work performed met all perform-
16 ance, cost, and schedule requirements;

17 (4) specifies that, for the acquisition or upgrade
18 of air, surface, or shore capabilities and assets for
19 which compliance with TEMPEST certification is a
20 requirement, the standard for determining such com-
21 pliance will be the air, surface, or shore standard
22 then used by the Department of the Navy for that
23 type of capability or asset; and

24 (5) for any contract awarded to acquire an Off-
25 shore Patrol Cutter, includes provisions specifying

1 the service life, fatigue life, and days underway in
2 general Atlantic and North Pacific Sea conditions,
3 maximum range, and maximum speed the cutter will
4 be built to achieve.

5 (b) PROHIBITED CONTRACT PROVISIONS.—The Com-
6 mandant shall ensure that any contract awarded or deliv-
7 ery order or task order issued by the Coast Guard after
8 the date of enactment of this Act does not include any
9 provision allowing for equitable adjustment that differs
10 from the Federal Acquisition Regulation.

11 (c) EXTENSION OF PROGRAM.—Any contract, con-
12 tract modification, or award term extending a contract
13 with a lead systems integrator—

14 (1) shall not include any minimum require-
15 ments for the purchase of a given or determinable
16 number of specific capabilities or assets; and

17 (2) shall be reviewed by an independent third
18 party with expertise in acquisition management, and
19 the results of that review shall be submitted to the
20 appropriate congressional committees at least 60
21 days prior to the award of the contract, contract
22 modification, or award term.

23 **SEC. 203. LIFE-CYCLE COST ESTIMATES.**

24 (a) IN GENERAL.—The Commandant shall imple-
25 ment mechanisms to ensure the development and regular

1 updating of life-cycle cost estimates for each acquisition
2 with a total acquisition cost that equals or exceeds
3 \$10,000,000 and an expected service life of 10 years, and
4 to ensure that these estimates are considered in decisions
5 to develop or produce new or enhanced capabilities and
6 assets.

7 (b) TYPES OF ESTIMATES.—In addition to life-cycle
8 cost estimates that may be developed by acquisition pro-
9 gram offices, the Commandant shall require that an inde-
10 pendent life-cycle cost estimate be developed for each
11 Level 1 or Level 2 acquisition program or project.

12 (c) REQUIRED UPDATES.—For each Level 1 or Level
13 2 acquisition program or project the Commandant shall
14 require that life-cycle cost estimates shall be updated be-
15 fore each milestone decision is concluded and the program
16 or project enters a new acquisition phase.

17 **SEC. 204. TEST AND EVALUATION.**

18 (a) TEST AND EVALUATION MASTER PLAN.—

19 (1) IN GENERAL.—For any Level 1 or Level 2
20 acquisition program or project the Coast Guard
21 Chief Acquisition Officer must approve a Test and
22 Evaluation Master Plan specific to the acquisition
23 program or project for the capability, asset, or sub-
24 systems of the capability or asset and intended to
25 minimize technical, cost, and schedule risk as early

1 as practicable in the development of the program or
2 project.

3 (2) TEST AND EVALUATION STRATEGY.—The
4 TEMP shall—

5 (A) set forth an integrated test and evalua-
6 tion strategy that will verify that capability-level
7 or asset-level and sub-system-level design and
8 development, including performance and
9 supportability, have been sufficiently proven be-
10 fore the capability, asset, or sub-system of the
11 capability or asset is approved for production;
12 and

13 (B) require that adequate developmental
14 tests and evaluations and operational tests and
15 evaluations established under subparagraph (A)
16 are performed to inform production decisions.

17 (3) OTHER COMPONENTS OF TEMP.—At a min-
18 imum, the TEMP shall identify—

19 (A) the key performance parameters to be
20 resolved through the integrated test and evalua-
21 tion strategy;

22 (B) critical operational issues to be as-
23 sessed in addition to the key performance pa-
24 rameters;

1 (C) specific development test and evalua-
2 tion phases and the scope of each phase;

3 (D) modeling and simulation activities to
4 be performed, if any, and the scope of such ac-
5 tivities;

6 (E) early operational assessments to be
7 performed, if any, and the scope of such assess-
8 ments;

9 (F) operational test and evaluation phases;

10 (G) an estimate of the resources, including
11 funds, that will be required for all test, evalua-
12 tion, assessment, modeling, and simulation ac-
13 tivities; and

14 (H) the Government entity or independent
15 entity that will perform the test, evaluation, as-
16 sessment, modeling, and simulation activities.

17 (4) UPDATE.—The Coast Guard Chief Acquisi-
18 tion Officer shall approve an updated TEMP when-
19 ever there is a revision to program or project test
20 and evaluation strategy, scope, or phasing.

21 (5) LIMITATION.—The Coast Guard may not—

22 (A) proceed past that phase of the acquisi-
23 tion process that entails approving the sup-
24 porting acquisition of a capability or asset be-

1 fore the TEMP is approved by the Coast Guard
2 Chief Acquisition Officer; or

3 (B) award any production contract for a
4 capability, asset, or sub-system for which a
5 TEMP is required under this subsection before
6 the TEMP is approved by the Coast Guard
7 Chief Acquisition Officer.

8 (b) TESTS AND EVALUATIONS.—

9 (1) IN GENERAL.—The Commandant shall en-
10 sure that the Coast Guard conducts developmental
11 tests and evaluations and operational tests and eval-
12 uations of a capability or asset and the sub-systems
13 of the capability or asset for which a TEMP has
14 been prepared under subsection (a).

15 (2) USE OF THIRD PARTIES.—The Com-
16 mandant shall ensure that the Coast Guard uses
17 third parties with expertise in testing and evaluating
18 the capabilities or assets and the sub-systems of the
19 capabilities or assets being acquired to conduct de-
20 velopmental tests and evaluations and operational
21 tests and evaluations whenever the Coast Guard
22 lacks the capability to conduct the tests and evalua-
23 tions required by a TEMP.

24 (3) COMMUNICATION OF SAFETY CONCERNS.—

25 The Commandant shall require that safety concerns

1 identified during developmental or operational tests
2 and evaluations or through independent or Govern-
3 ment-conducted design assessments of capabilities or
4 assets and sub-systems of capabilities or assets to be
5 acquired by the Coast Guard shall be communicated
6 as soon as practicable, but not later than 30 days
7 after the completion of the test or assessment event
8 or activity that identified the safety concern, to the
9 program manager for the capability or asset and the
10 sub-systems concerned and to the Coast Guard Chief
11 Acquisition Officer.

12 (4) REPORTING OF SAFETY CONCERNS.—Any
13 safety concerns that have been reported to the Chief
14 Acquisition Officer for an acquisition program or
15 project shall be reported by the Commandant to the
16 appropriate congressional committees at least 90
17 days before the award of any contract or issuance of
18 any delivery order or task order for low, initial, or
19 full-rate production of the capability or asset con-
20 cerned if they will remain uncorrected or unmiti-
21 gated at the time such a contract is awarded or de-
22 livery order or task order is issued. The report shall
23 include a justification for the approval of that level
24 of production of the capability or asset before the
25 safety concern is corrected or mitigated. The report

1 shall also include an explanation of the actions that
2 will be taken to correct or mitigate the safety con-
3 cern, the date by which those actions will be taken,
4 and the adequacy of current funding to correct or
5 mitigate the safety concern.

6 (5) ASSET ALREADY IN LOW, INITIAL, OR FULL-
7 RATE PRODUCTION.—If operational test and evalua-
8 tion on a capability or asset already in low, initial,
9 or full-rate production identifies a safety concern
10 with the capability or asset or any sub-systems of
11 the capability or asset not previously identified dur-
12 ing developmental or operational test and evaluation,
13 the Commandant shall—

14 (A) notify the program manager and the
15 Chief Acquisition Officer of the safety concern
16 as soon as practicable, but not later than 30
17 days after the completion of the test and eval-
18 uation event or activity that identified the safe-
19 ty concern; and

20 (B) notify the appropriate congressional
21 Committee of the safety concern not later than
22 30 days after notification is made to the pro-
23 gram manager and Chief Acquisition Officer,
24 and include in such notification—

1 (i) an explanation of the actions that
 2 will be taken to correct or mitigate the
 3 safety concern in all capabilities or assets
 4 and sub-systems of the capabilities or as-
 5 sets yet to be produced, and the date by
 6 which those actions will be taken;

7 (ii) an explanation of the actions that
 8 will be taken to correct or mitigate the
 9 safety concern in previously produced ca-
 10 pabilities or assets and sub-systems of the
 11 capabilities or assets, and the date by
 12 which those actions will be taken; and

13 (iii) an assessment of the adequacy of
 14 current funding to correct or mitigate the
 15 safety concern in capabilities or assets and
 16 sub-systems of the capabilities or assets
 17 and in previously produced capabilities or
 18 assets and sub-systems.

19 (c) DEFINITIONS.—In this section:

20 (1) DEVELOPMENTAL TEST AND EVALUA-
 21 TION.—The term “developmental test and evalua-
 22 tion” means—

23 (A) the testing of a capability or asset and
 24 the sub-systems of the capability or asset to de-
 25 termine whether they meet all contractual per-

1 formance requirements, including technical per-
2 formance requirements, supportability require-
3 ments, and interoperability requirements and
4 related specifications; and

5 (B) the evaluation of the results of such
6 testing.

7 (2) OPERATIONAL TEST AND EVALUATION.—

8 The term “operational test and evaluation” means—

9 (A) the testing of a capability or asset and
10 the sub-systems of the capability or asset,
11 under conditions similar to those in which the
12 capability or asset and subsystems will actually
13 be deployed, for the purpose of determining the
14 effectiveness and suitability of the capability or
15 asset and sub-systems for use by typical Coast
16 Guard users to conduct those missions for
17 which the capability or asset and sub-systems
18 are intended to be used; and

19 (B) the evaluation of the results of such
20 testing.

21 (3) SAFETY CONCERN.—The term “safety con-
22 cern” means any hazard associated with a capability
23 or asset or a sub-system of a capability or asset that
24 is likely to cause serious bodily injury or death to a
25 typical Coast Guard user in testing, maintaining, re-

1 pairing, or operating the capability, asset, or sub-
2 system or any hazard associated with the capability,
3 asset, or sub-system that is likely to cause major
4 damage to the capability, asset, or sub-system dur-
5 ing the course of its normal operation by a typical
6 Coast Guard user.

7 (4) TEMP.—The term “TEMP” means a Test
8 and Evaluation Master Plan for which approval is
9 required under this section.

10 **SEC. 205. CAPABILITY STANDARDS.**

11 (a) CUTTER CLASSIFICATION.—The Commandant
12 shall cause each cutter, other than a National Security
13 Cutter, acquired by the Coast Guard and delivered after
14 the date of enactment of this Act to be classed by the
15 American Bureau of Shipping before final acceptance.

16 (b) TEMPEST TESTING.—The Commandant shall—

17 (1) cause all electronics on all aircraft, surface,
18 and shore capabilities and assets that require TEM-
19 PEST certification and that are delivered after the
20 date of enactment of this Act to be tested in accord-
21 ance with TEMPEST standards and communication
22 security (COMSEC) standards by an independent
23 third party that is authorized by the Federal Gov-
24 ernment to perform such testing; and

1 (2) certify that the capabilities and assets meet
2 all applicable TEMPEST requirements.

3 (c) NATIONAL SECURITY CUTTERS.—

4 (1) NATIONAL SECURITY CUTTERS 1 AND 2.—

5 Not later than 90 days before the Coast Guard
6 awards any contract or issues any delivery order or
7 task order to strengthen the hull of either of Na-
8 tional Security Cutter 1 or 2 to resolve the struc-
9 tural design and performance issues identified in the
10 Department of Homeland Security Inspector Gen-
11 eral's report OIG-07-23 dated January 2007, the
12 Commandant shall submit to the appropriate con-
13 gressional committees all results of an assessment of
14 the proposed hull strengthening design conducted by
15 the Coast Guard, including—

16 (A) a description in detail of the extent to
17 which the hull strengthening measures to be im-
18 plemented on those cutters will enable the cut-
19 ters to meet contract and performance require-
20 ments;

21 (B) a cost benefit analysis of the proposed
22 hull strengthening measures for National Secu-
23 rity Cutters 1 and 2; and

24 (C) a description of any operational re-
25 strictions that would have to be applied to ei-

1 ther National Security Cutters 1 or 2 if the
2 proposed hull strengthening measures were not
3 implemented on either cutter.

4 (2) OTHER VESSELS.—The Commandant shall
5 cause the design and construction of each National
6 Security Cutter, other than National Security Cut-
7 ters 1, 2, and 3, to be assessed by an independent
8 third party with expertise in vessel design and con-
9 struction certification.

10 (d) AIRCRAFT AIRWORTHINESS.—The Commandant
11 shall cause all aircraft and aircraft engines acquired by
12 the Coast Guard and delivered after the date of enactment
13 of this Act to be assessed for airworthiness by an inde-
14 pendent third party with expertise in aircraft and aircraft
15 engine certification, before final acceptance.

16 **SEC. 206. ACQUISITION PROGRAM REPORTS.**

17 Any Coast Guard Level 1 or Level 2 acquisition pro-
18 gram or project may not begin to obtain any capability
19 or asset or proceed beyond that phase of its development
20 that entails approving the supporting acquisition until the
21 Commandant submits to the appropriate congressional
22 committees the following:

23 (1) The key performance parameters, the key
24 system attributes, and the operational performance
25 attributes of the capability and asset to be acquired

1 under the proposed acquisition program or project
2 will be built to achieve.

3 (2) A detailed list of the systems or other capa-
4 bilities with which the capability or asset to be ac-
5 quired is intended to be interoperable, including an
6 explanation of the attributes of interoperability.

7 (3) The anticipated acquisition program base-
8 line and acquisition unit cost for the capability or
9 asset to be produced and deployed under the pro-
10 gram or project.

11 (4) A detailed schedule for the acquisition proc-
12 ess showing when all capability and asset acquisi-
13 tions are to be completed and when all acquired ca-
14 pabilities and assets are to be initially and fully de-
15 ployed.

16 **SEC. 207. UNDEFINITIZED CONTRACTUAL ACTIONS.**

17 (a) IN GENERAL.—The Coast Guard may not enter
18 into an undefinitized contractual action unless such action
19 is directly approved by the Head of Contracting Activity
20 of the Coast Guard.

21 (b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL
22 ACTIONS.—Any request to the Head of Contracting Activ-
23 ity for approval of an undefinitized contractual action cov-
24 ered under subsection (a) must include a description of
25 the anticipated effect on requirements of the Coast Guard

1 if a delay is incurred for the purposes of determining con-
 2 tractual terms, specifications, and price before perform-
 3 ance is begun under the contractual action.

4 (c) REQUIREMENTS FOR UNDEFINITIZED CONTRAC-
 5 TUAL ACTIONS.—

6 (1) DEADLINE FOR AGREEMENT ON TERMS,
 7 SPECIFICATIONS, AND PRICE.—A contracting officer
 8 of the Coast Guard may not enter into an
 9 undefinitized contractual action unless the contrac-
 10 tual action provides for agreement upon contractual
 11 terms, specification, and price by the earlier of—

12 (A) the end of the 180-day period begin-
 13 ning on the date on which the contractor sub-
 14 mits a qualifying proposal to definitize the con-
 15 tractual terms, specifications, and price; or

16 (B) the date on which the amount of funds
 17 obligated under the contractual action is equal
 18 to more than 50 percent of the negotiated over-
 19 all ceiling price for the contractual action.

20 (2) LIMITATION ON OBLIGATIONS.—

21 (A) IN GENERAL.—Except as provided in
 22 subparagraph (B), the contracting officer for an
 23 undefinitized contractual action may not obli-
 24 gate under such contractual action an amount
 25 that exceeds 50 percent of the negotiated over-

1 all ceiling price until the contractual terms,
2 specifications, and price are definitized for such
3 contractual action.

4 (B) EXCEPTION.—Notwithstanding sub-
5 paragraph (A), if a contractor submits a quali-
6 fying proposal to definitize an undefinitized
7 contractual action before an amount that ex-
8 ceeds 50 percent of the negotiated overall ceil-
9 ing price is obligated on such action, the con-
10 tracting officer for such action may not obligate
11 with respect to such contractual action an
12 amount that exceeds 75 percent of the nego-
13 tiated overall ceiling price until the contractual
14 terms, specifications, and price are definitized
15 for such contractual action.

16 (3) WAIVER.—The Commandant may waive the
17 application of this subsection with respect to a con-
18 tract if the Commandant determines that the waiver
19 is necessary to support—

20 (A) a contingency operation (as that term
21 is defined in section 101(a)(13) of title 10,
22 United States Code);

23 (B) an operation in response to an emer-
24 gency that poses an unacceptable threat to

1 human health or safety or to the marine envi-
2 ronment; or

3 (C) an operation in response to a natural
4 disaster or major disaster or emergency des-
5 ignated by the President under the Robert T.
6 Stafford Disaster Relief and Emergency Assist-
7 ance Act (42 U.S.C. 5121 et seq.).

8 (4) LIMITATION ON APPLICATION.—This sub-
9 section does not apply to an undefinitized contrac-
10 tual action for the purchase of initial spares.

11 (d) INCLUSION OF NONURGENT REQUIREMENTS.—
12 Requirements for spare parts and support equipment that
13 are not needed on an urgent basis may not be included
14 in an undefinitized contractual action by the Coast Guard
15 for spare parts and support equipment that are needed
16 on an urgent basis unless the Commandant approves such
17 inclusion as being—

18 (1) good business practice; and

19 (2) in the best interests of the United States.

20 (e) MODIFICATION OF SCOPE.—The scope of an
21 undefinitized contractual action under which performance
22 has begun may not be modified unless the Commandant
23 approves such modification as being—

24 (1) good business practice; and

25 (2) in the best interests of the United States.

1 (f) ALLOWABLE PROFIT.—The Commandant shall
2 ensure that the profit allowed on an undefinitized contrac-
3 tual action for which the final price is negotiated after
4 a substantial portion of the performance required is com-
5 pleted reflects—

6 (1) the possible reduced cost risk of the con-
7 tractor with respect to costs incurred during per-
8 formance of the contract before the final price is ne-
9 gotiated; and

10 (2) the reduced cost risk of the contractor with
11 respect to costs incurred during performance of the
12 remaining portion of the contract.

13 (g) DEFINITIONS.—In this section:

14 (1) UNDEFINITIZED CONTRACTUAL ACTION.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the term “undefinitized con-
17 tractual action” means a new procurement ac-
18 tion entered into by the Coast Guard for which
19 the contractual terms, specifications, or price
20 are not agreed upon before performance is
21 begun under the action.

22 (B) EXCLUSION.—Such term does not in-
23 clude contractual actions with respect to the fol-
24 lowing:

25 (i) Foreign military sales.

1 (ii) Purchases in an amount not in ex-
 2 cess of the amount of the simplified acqui-
 3 sition threshold.

4 (iii) Special access programs.

5 (2) QUALIFYING PROPOSAL.—The term “quali-
 6 fying proposal” means a proposal that contains suf-
 7 ficient information to enable complete and meaning-
 8 ful audits of the information contained in the pro-
 9 posal as determined by the contracting officer.

10 **SEC. 208. GUIDANCE ON EXCESSIVE PASS-THROUGH**
 11 **CHARGES.**

12 (a) IN GENERAL.—Not later than 180 days after the
 13 date of enactment of this Act, the Commandant shall issue
 14 guidance to ensure that pass-through charges on con-
 15 tracts, subcontracts, delivery orders, and task orders that
 16 are entered into with a private entity acting as a lead sys-
 17 tems integrator by or on behalf of the Coast Guard are
 18 not excessive in relation to the cost of work performed by
 19 the relevant contractor or subcontractor. The guidance
 20 shall, at a minimum—

21 (1) set forth clear standards for determining
 22 when no, or negligible, value has been added to a
 23 contract by a contractor or subcontractor;

1 (2) set forth procedures for preventing the pay-
 2 ment by the Government of excessive pass-through
 3 charges; and

4 (3) identify any exceptions determined by the
 5 Commandant to be in the best interest of the Gov-
 6 ernment.

7 (b) EXCESSIVE PASS-THROUGH CHARGE DE-
 8 FINED.—In this section the term “excessive pass-through
 9 charge”, with respect to a contractor or subcontractor that
 10 adds no, or negligible, value to a contract or subcontract,
 11 means a charge to the Government by the contractor or
 12 subcontractor that is for overhead or profit on work per-
 13 formed by a lower-tier contractor or subcontractor, other
 14 than reasonable charges for the direct costs of managing
 15 lower-tier contractors and subcontracts and overhead and
 16 profit based on such direct costs.

17 (c) APPLICATION OF GUIDANCE.—The guidance
 18 under this subsection shall apply to contracts awarded to
 19 a private entity acting as a lead systems integrator by or
 20 on behalf of the Coast Guard on or after the date that
 21 is 360 days after the date of enactment of this Act.

22 **SEC. 209. ACQUISITION OF MAJOR CAPABILITIES: ALTER-**
 23 **NATIVES ANALYSIS.**

24 The Coast Guard may not acquire an experimental
 25 or technically immature capability or asset or implement

1 a Level 1 or Level 2 acquisition, unless it has conducted
2 an alternatives analysis for the capability or asset to be
3 acquired in the concept and technology development phase
4 of the acquisition process for the capability or asset. Such
5 analysis shall be conducted by a federally funded research
6 and development center, a qualified entity of the Depart-
7 ment of Defense, or a similar independent third party enti-
8 ty that has appropriate acquisition expertise. Such alter-
9 natives analysis shall include—

10 (1) an assessment of the technical maturity of
11 the capability or asset and technical and other risks;

12 (2) an examination of capability, interoper-
13 ability, and other advantages and disadvantages;

14 (3) an evaluation of whether different combina-
15 tions or quantities of specific capabilities or assets
16 could meet the Coast Guard's overall performance
17 needs;

18 (4) a discussion of key assumptions and vari-
19 ables, and sensitivity to change in such assumptions
20 and variables;

21 (5) when an alternative is an existing capa-
22 bility, asset, or prototype, an evaluation of relevant
23 safety and performance records and costs;

24 (6) a calculation of life-cycle costs, including—

1 (A) an examination of development costs
 2 and the levels of uncertainty associated with
 3 such estimated costs;

4 (B) an examination of likely production
 5 and deployment costs and the levels of uncer-
 6 tainty associated with such estimated costs;

7 (C) an examination of likely operating and
 8 support costs and the levels of uncertainty asso-
 9 ciated with such estimated costs;

10 (D) if they are likely to be significant, an
 11 examination of likely disposal costs and the lev-
 12 els of uncertainty associated with such esti-
 13 mated costs; and

14 (E) such additional measures the Com-
 15 mandant determines to be necessary for appro-
 16 priate evaluation of the capability or asset; and

17 (7) the business case for each viable alternative.

18 **SEC. 210. COST OVERRUNS AND DELAYS.**

19 (a) IN GENERAL.—The Commandant shall submit a
 20 report to the appropriate congressional committees as
 21 soon as possible, but not later than 30 days, after the
 22 Chief Acquisition Officer of the Coast Guard becomes
 23 aware of the breach of an acquisition program baseline
 24 for any Level 1 or Level 2 acquisition program, by—

1 (1) a likely cost overrun greater than 10 per-
2 cent of the acquisition program baseline for that in-
3 dividual capability or asset or a class of capabilities
4 or assets;

5 (2) a likely delay of more than 180 days in the
6 delivery schedule for any individual capability or
7 asset or class of capabilities or assets; or

8 (3) an anticipated failure for any individual ca-
9 pability or asset or class of capabilities or assets to
10 satisfy any key performance threshold or parameter
11 under the acquisition program baseline.

12 (b) CONTENT.—The report submitted under sub-
13 section (a) shall include—

14 (1) a detailed description of the breach and an
15 explanation of its cause;

16 (2) the projected impact to performance, cost,
17 and schedule;

18 (3) an updated acquisition program baseline
19 and the complete history of changes to the original
20 acquisition program baseline;

21 (4) the updated acquisition schedule and the
22 complete history of changes to the original schedule;

23 (5) a full life-cycle cost analysis for the capa-
24 bility or asset or class of capabilities or assets;

1 (6) a remediation plan identifying corrective ac-
2 tions and any resulting issues or risks; and

3 (7) a description of how progress in the remedi-
4 ation plan will be measured and monitored.

5 (c) SUBSTANTIAL VARIANCES IN COSTS OR SCHED-
6 ULE.—If a likely cost overrun is greater than 20 percent
7 or a likely delay is greater than 12 months from the costs
8 and schedule described in the acquisition program baseline
9 for any Level 1 or Level 2 acquisition program or project
10 of the Coast Guard, the Commandant shall include in the
11 report a written certification, with a supporting expla-
12 nation, that—

13 (1) the capability or asset or capability or asset
14 class to be acquired under the program or project is
15 essential to the accomplishment of Coast Guard mis-
16 sions;

17 (2) there are no alternatives to such capability
18 or asset or capability or asset class which will pro-
19 vide equal or greater capability in both a more cost-
20 effective and timely manner;

21 (3) the new acquisition schedule and estimates
22 for total acquisition cost are reasonable; and

23 (4) the management structure for the acquisi-
24 tion program is adequate to manage and control per-
25 formance, cost, and schedule.

1 **SEC. 211. REPORT ON FORMER COAST GUARD OFFICIALS**
2 **EMPLOYED BY CONTRACTORS TO THE AGEN-**
3 **CY.**

4 (a) REPORT REQUIRED.—Not later than December
5 31, 2009, and annually thereafter, the Comptroller Gen-
6 eral of the United States shall submit a report to the ap-
7 propriate congressional committees on the employment
8 during the preceding year by Coast Guard contractors of
9 individuals who were Coast Guard officials in the previous
10 5-year period. The report shall assess the extent to which
11 former Coast Guard officials were provided compensation
12 by Coast Guard contractors in the preceding calendar
13 year.

14 (b) OBJECTIVES OF REPORT.—At a minimum, the
15 report required by this section shall assess the extent to
16 which former Coast Guard officials who receive compensa-
17 tion from Coast Guard contractors have been assigned by
18 those contractors to work on contracts or programs be-
19 tween the contractor and the Coast Guard, including con-
20 tracts or programs for which the former official personally
21 had oversight responsibility or decision-making authority
22 when they served in or worked for the Coast Guard.

23 (c) CONFIDENTIALITY REQUIREMENT.—The report
24 required by this subsection shall not include the names
25 of the former Coast Guard officials who receive compensa-
26 tion from Coast Guard contractors.

1 (d) ACCESS TO INFORMATION.—A Coast Guard con-
2 tractor shall provide the Comptroller General access to in-
3 formation requested by the Comptroller General for the
4 purpose of conducting the study required by this section.

5 (e) DEFINITIONS.—In this section:

6 (1) COAST GUARD CONTRACTOR.—The term
7 “Coast Guard contractor” includes any person that
8 received at least \$10,000,000 in contractor awards
9 from the Coast Guard in the calendar year covered
10 by the annual report.

11 (2) COAST GUARD OFFICIAL.—The term “Coast
12 Guard official” includes former officers of the Coast
13 Guard who were compensated at a rate of pay for
14 grade O–7 or above during the calendar year prior
15 to the date on which they separated from the Coast
16 Guard, and former civilian employees of the Coast
17 Guard who served at any level of the Senior Execu-
18 tive Service under subchapter VIII of chapter 53 of
19 title 5, United States Code, during the calendar year
20 prior to the date on which they separated from the
21 Coast Guard.

22 **SEC. 212. DEPARTMENT OF DEFENSE CONSULTATION.**

23 (a) IN GENERAL.—The Commandant shall make ar-
24 rangements as appropriate with the Secretary of Defense
25 for support in contracting and management of Coast

1 Guard acquisition programs. The Commandant shall also
2 seek opportunities to make use of Department of Defense
3 contracts, and contracts of other appropriate agencies, to
4 obtain the best possible price for capabilities and assets
5 acquired for the Coast Guard.

6 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The
7 Commandant may enter into a memorandum of under-
8 standing or a memorandum of agreement with the Sec-
9 retary of the Navy to obtain the assistance of the Office
10 of the Assistant Secretary of the Navy for Research, De-
11 velopment, and Acquisition, including the Navy Systems
12 Commands, with the oversight of Coast Guard major ac-
13 quisition programs. Such memorandum of understanding
14 or memorandum of agreement shall, at a minimum, pro-
15 vide for—

16 (1) the exchange of technical assistance and
17 support that the Coast Guard Chief Acquisition Offi-
18 cer, Coast Guard Chief Engineer, and the Coast
19 Guard Chief Information Officer may identify;

20 (2) the use, as appropriate, of Navy technical
21 expertise; and

22 (3) the temporary assignment or exchange of
23 personnel between the Coast Guard and the Office
24 of the Assistant Secretary of the Navy for Research,
25 Development, and Acquisition, including Naval Sys-

1 tems Commands, to facilitate the development of or-
2 ganic capabilities in the Coast Guard.

3 (c) TECHNICAL REQUIREMENT APPROVAL PROCE-
4 DURES.—The Coast Guard Chief Acquisition Officer shall
5 adopt, to the extent practicable, procedures that are simi-
6 lar to those used by the senior procurement executive of
7 the Department of the Navy to approve all technical re-
8 quirements.

9 (d) ASSESSMENT.—Within 180 days after the date
10 of enactment of this Act, the Comptroller General shall
11 transmit a report to the appropriate congressional com-
12 mittees that—

13 (1) contains an assessment of current Coast
14 Guard acquisition and management capabilities to
15 manage Level 1 and Level 2 acquisitions;

16 (2) includes recommendations as to how the
17 Coast Guard can improve its acquisition manage-
18 ment, either through internal reforms or by seeking
19 acquisition expertise from the Department of De-
20 fense; and

21 (3) addresses specifically the question of wheth-
22 er the Coast Guard can better leverage Department
23 of Defense or other agencies' contracts that would
24 meet the needs of Level 1 or Level 2 acquisitions in
25 order to obtain the best possible price.

TITLE III—COAST GUARD PERSONNEL

SEC. 301. CHIEF ACQUISITION OFFICER.

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

“§ 55. Chief Acquisition Officer

“(a) ESTABLISHMENT OF CHIEF ACQUISITION OFFICER.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

“(b) QUALIFICATIONS.—

“(1) The Chief Acquisition Officer and any Flag Officer serving in the Acquisitions Directorate shall be an acquisition professional with a program manager level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent in one of the following qualifying positions:

“(A) Program executive officer.

1 “(B) Program manager of a Level 1 or
2 Level 2 acquisition.

3 “(C) Deputy program manager of a Level
4 1 or Level 2 acquisition.

5 “(D) Project manager for a Level 1 or
6 Level 2 acquisition.

7 “(E) Any other acquisition position of sig-
8 nificant responsibility in which the primary du-
9 ties are supervisory or management duties.

10 “(2) The Commandant shall periodically publish
11 a list of the positions designated under this sub-
12 section.

13 “(c) AUTHORITY AND FUNCTIONS OF THE CHIEF AC-
14 QUISITION OFFICER.—The functions of the Chief Acquisi-
15 tion Officer shall include—

16 “(1) monitoring the performance of programs
17 and projects on the basis of applicable performance
18 measurements and advising the Commandant,
19 through the chain of command, regarding the appro-
20 priate business strategy to achieve the missions of
21 the Coast Guard;

22 “(2) maximizing the use of full and open com-
23 petition at the prime contract and subcontract levels
24 in the acquisition of property, capabilities, assets,
25 and services by the Coast Guard by establishing poli-

1 cies, procedures, and practices that ensure that the
2 Coast Guard receives a sufficient number of sealed
3 bids or competitive proposals from responsible
4 sources to fulfill the Government’s requirements, in-
5 cluding performance and delivery schedules, at the
6 lowest cost or best value considering the nature of
7 the property, capability, asset, or service procured;

8 “(3) making acquisition decisions in concur-
9 rence with the technical authority of the Coast
10 Guard, as designated by the Commandant, and con-
11 sistent with all other applicable laws and decisions
12 establishing procedures within the Coast Guard;

13 “(4) ensuring the use of detailed performance
14 specifications in instances in which performance
15 based contracting is used;

16 “(5) managing the direction of acquisition pol-
17 icy for the Coast Guard, including implementation of
18 the unique acquisition policies, regulations, and
19 standards of the Coast Guard;

20 “(6) developing and maintaining an acquisition
21 career management program in the Coast Guard to
22 ensure that there is an adequate acquisition work-
23 force;

24 “(7) assessing the requirements established for
25 Coast Guard personnel regarding knowledge and

1 skill in acquisition resources and management and
2 the adequacy of such requirements for facilitating
3 the achievement of the performance goals established
4 for acquisition management;

5 “(8) developing strategies and specific plans for
6 hiring, training, and professional development; and

7 “(9) reporting to the Commandant, through the
8 chain of command, on the progress made in improv-
9 ing acquisition management capability.”.

10 (b) APPLICATION OF QUALIFICATION REQUIRE-
11 MENT.—Section 55(b) of title 46, United States Code, as
12 amended by this section, shall apply beginning October 1,
13 2011.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of such chapter is amended by adding
16 at the end the following:

“55. Chief Acquisition Officer.”.

17 (d) ELEVATION OF DISPUTES TO THE CHIEF ACQUI-
18 SITION OFFICER.—Within 45 days after the elevation to
19 the Chief Acquisition Officer of any design or other dis-
20 pute regarding a Level 1 or Level 2 acquisition, the Com-
21 mandant shall provide to the appropriate congressional
22 committees a detailed description of the issue and the ra-
23 tionale underlying the decision taken by the Chief Acquisi-
24 tion Officer to resolve the issue.

25 (e) SPECIAL RATE SUPPLEMENTS.—

1 (1) REQUIREMENT TO ESTABLISH.—Not later
2 than 1 year after the date of enactment of this Act
3 and in accordance with part 9701.333 of title 5,
4 Code of Federal Regulations, the Commandant shall
5 establish special rate supplements that provide high-
6 er pay levels for employees necessary to carry out
7 the amendment made by this section.

8 (2) SUBJECT TO APPROPRIATIONS.—The re-
9 quirement under paragraph (1) is subject to the
10 availability of appropriations.

11 **SEC. 302. IMPROVEMENTS IN COAST GUARD ACQUISITION**
12 **MANAGEMENT.**

13 (a) PROGRAM AND PROJECT MANAGERS.—An indi-
14 vidual may not be assigned as the program manager for
15 a Level 1 or Level 2 acquisition unless the individual holds
16 a Level III acquisition certification as a program manager.

17 (b) INTEGRATED PRODUCT TEAMS.—Integrated
18 product teams, and all teams that oversee integrated prod-
19 uct teams, shall be chaired by officers, members, or em-
20 ployees of the Coast Guard.

21 (c) TECHNICAL AUTHORITY.—The Commandant
22 shall maintain or designate the technical authority to es-
23 tablish, approve, and maintain technical requirements.
24 Any such designation shall be made in writing and may
25 not be delegated to the authority of the Chief Acquisition

1 Officer established by section 55 of title 14, United States
2 Code.

3 (d) DESIGNATION OF POSITIONS IN THE ACQUISITION
4 TION WORKFORCE.—

5 (1) IN GENERAL.—The Commandant shall des-
6 ignate a sufficient number of positions to be in the
7 Coast Guard’s acquisition workforce to perform ac-
8 quisition-related functions at Coast Guard head-
9 quarters and field activities.

10 (2) REQUIRED POSITIONS.—In designating po-
11 sitions under subsection (a), the Commandant shall
12 include, at a minimum, positions encompassing the
13 following competencies and functions:

14 (A) Program management.

15 (B) Systems planning, research, develop-
16 ment, engineering, and testing.

17 (C) Procurement, including contracting.

18 (D) Industrial and contract property man-
19 agement.

20 (E) Life-cycle logistics.

21 (F) Quality control and assurance.

22 (G) Manufacturing and production.

23 (H) Business, cost estimating, financial
24 management, and auditing.

1 (I) Acquisition education, training, and ca-
2 reer development.

3 (J) Construction and facilities engineering.

4 (K) Testing and evaluation.

5 (3) ACQUISITION MANAGEMENT HEADQUARTER
6 ACTIVITIES.—The Commandant shall also designate
7 as positions in the acquisition workforce under para-
8 graph (1) those acquisition-related positions located
9 at Coast Guard headquarters units.

10 (4) APPROPRIATE EXPERTISE REQUIRED.—The
11 Commandant shall ensure that each individual as-
12 signed to a position in the acquisition workforce has
13 the appropriate expertise to carry out the respon-
14 sibilities of that position.

15 (e) MANAGEMENT INFORMATION SYSTEM.—

16 (1) IN GENERAL.—The Commandant shall es-
17 tablish a management information system capability
18 to improve acquisition workforce management and
19 reporting.

20 (2) INFORMATION MAINTAINED.—Information
21 maintained with such capability shall include the fol-
22 lowing standardized information on individuals as-
23 signed to positions in the workforce:

24 (A) Qualifications, assignment history, and
25 tenure of those individuals assigned to positions

1 in the acquisition workforce or holding acquisition-
2 tion-related certifications.

3 (B) Promotion rates for officers and mem-
4 bers of the Coast Guard in the acquisition
5 workforce.

6 (f) REPORT ON ADEQUACY OF ACQUISITION WORK-
7 FORCE.—

8 (1) IN GENERAL.—The Commandant shall re-
9 port to the appropriate congressional committees by
10 July 1 of each year on the scope of the acquisition
11 activities to be performed in the next fiscal year and
12 on the adequacy of the current acquisition workforce
13 to meet that anticipated workload.

14 (2) CONTENTS.—The report shall—

15 (A) specify the number of officers, mem-
16 bers, and employees of the Coast Guard cur-
17 rently and planned to be assigned to each posi-
18 tion designated under subsection (d); and

19 (B) identify positions that are understaffed
20 to meet the anticipated acquisition workload,
21 and actions that will be taken to correct such
22 understaffing.

23 (g) APPOINTMENTS TO ACQUISITION POSITIONS.—
24 The Commandant shall ensure that no requirement or
25 preference for officers or members of the Coast Guard is

1 used in the consideration of persons for positions in the
2 acquisition workforce.

3 (h) CAREER PATHS.—

4 (1) IDENTIFICATION OF CAREER PATHS.—To
5 establish acquisition management as a core com-
6 petency of the Coast Guard, the Commandant
7 shall—

8 (A) ensure that career paths for officers,
9 members, and employees of the Coast Guard
10 who wish to pursue careers in acquisition are
11 identified in terms of the education, training,
12 experience, and assignments necessary for ca-
13 reer progression of those officers, members, and
14 employees to the most senior positions in the
15 acquisition workforce; and

16 (B) publish information on such career
17 paths.

18 (2) PROMOTION PARITY.—The Commandant
19 shall ensure that promotion parity is established for
20 officers and members of the Coast Guard who have
21 been assigned to the acquisition workforce relative to
22 officers and members who have not been assigned to
23 the acquisition workforce.

24 (i) BALANCED WORKFORCE POLICY.—In the devel-
25 opment of acquisition workforce policies under this section

1 with respect to any civilian employees or applicants for
2 employment, the Commandant shall, consistent with the
3 merit system principles set out in paragraphs (1) and (2)
4 of section 2301(b) of title 5, United States Code, take into
5 consideration the need to maintain a balanced workforce
6 in which women and members of racial and ethnic minor-
7 ity groups are appropriately represented in Government
8 service.

9 (j) GUIDANCE ON TENURE AND ACCOUNTABILITY OF
10 PROGRAM MANAGERS.—

11 (1) ISSUANCE OF GUIDANCE.—Not later than
12 one year after the date of enactment of this Act, the
13 Commandant shall issue guidance to address the
14 qualifications, resources, responsibilities, tenure, and
15 accountability of program managers for the manage-
16 ment of acquisition programs and projects. The
17 guidance shall address, at a minimum—

18 (A) the qualifications that shall be required
19 of program managers, including the number of
20 years of acquisition experience and the profes-
21 sional training levels to be required of those ap-
22 pointed to program management positions;

23 (B) authorities available to program man-
24 agers, including, to the extent appropriate, the
25 authority to object to the addition of new pro-

1 gram requirements that would be inconsistent
2 with the parameters established for an acquisi-
3 tion program; and

4 (C) the extent to which a program man-
5 ager who initiates a new program or project will
6 continue in management of that program or
7 project without interruption until the delivery of
8 the first production units of the program.

9 (2) STRATEGY.—

10 (A) IN GENERAL.—Not later than 18
11 months after the date of enactment of this Act,
12 the Commandant shall develop a comprehensive
13 strategy for enhancing the role of Coast Guard
14 program managers in developing and carrying
15 out acquisition programs.

16 (B) MATTERS TO BE ADDRESSED.—The
17 strategy required by this section shall address,
18 at a minimum—

19 (i) the creation of a specific career
20 path and career opportunities for individ-
21 uals who are or may become program man-
22 agers, including the rotational assignments
23 that will be provided to program managers;

24 (ii) the provision of enhanced training
25 and educational opportunities for individ-

1 uals who are or may become program man-
2 agers;

3 (iii) the provision of mentoring sup-
4 port to current and future program man-
5 agers by experienced senior executives and
6 program managers within the Coast
7 Guard, and through rotational assignments
8 to the Department of Defense;

9 (iv) the methods by which the Coast
10 Guard will collect and disseminate best
11 practices and lessons learned on systems
12 acquisition to enhance program manage-
13 ment throughout the Coast Guard;

14 (v) the templates and tools that will
15 be used to support improved data gath-
16 ering and analysis for program manage-
17 ment and oversight purposes, including the
18 metrics that will be utilized to assess the
19 effectiveness of Coast Guard program
20 managers in managing systems acquisition
21 efforts;

22 (vi) a description in detail of how the
23 Coast Guard will promote a balanced work-
24 force in which women and members of ra-
25 cial and ethnic minority groups are appro-

1 priately represented in Government service;

2 and

3 (vii) the methods by which the ac-
4 countability of program managers for the
5 results of acquisition programs will be in-
6 creased.

7 (3) REPORT BY COMPTROLLER GENERAL.—Not
8 later than 2 years after the date of enactment of
9 this Act, the Comptroller General of the United
10 States shall submit to the appropriate congressional
11 committees a report on the actions taken by the
12 Commandant to implement the requirements of this
13 subsection, including the strategies that are required
14 to be developed by this subsection.

15 **SEC. 303. RECOGNITION OF COAST GUARD PERSONNEL**
16 **FOR EXCELLENCE IN ACQUISITION.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of enactment of this Act, the Commandant shall com-
19 mence implementation of a program to recognize excellent
20 performance by individuals and teams comprised of offi-
21 cers, members, and employees of the Coast Guard that
22 contributed to the long-term success of a Coast Guard ac-
23 quisition program or project.

24 (b) ELEMENTS.—The program required by sub-
25 section (a) shall include the following:

(3) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

20 SEC. 304. ENHANCED STATUS QUO OFFICER PROMOTION
21 SYSTEM.

Chapter 11 of title 14, United States Code, is amended—

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1 (A) by inserting “and” after “considered,”;
2 and

3 (B) by striking “, and the number of offi-
4 cers the board may recommend for promotion”;
5 (2) in section 258—

6 (A) by inserting “(a) IN GENERAL.—” be-
7 fore the existing text;

8 (B) in subsection (a) (as so designated) by
9 striking the colon at the end of the material
10 preceding paragraph (1) and inserting “—”;
11 and

12 (C) by adding at the end the following:

13 “(b) PROVISION OF DIRECTION AND GUIDANCE.—

14 “(1) In addition to the information provided
15 pursuant to subsection (a), the Commandant may
16 furnish the selection board—

17 “(A) specific direction relating to the needs
18 of the Coast Guard for officers having par-
19 ticular skills, including direction relating to the
20 need for a minimum number of officers with
21 particular skills within a specialty; and

22 “(B) any other guidance that the Com-
23 mandant believes may be necessary to enable
24 the board to properly perform its functions.

1 “(2) Selections made based on the direction and
 2 guidance provided under this subsection shall not ex-
 3 ceed the maximum percentage of officers who may
 4 be selected from below the announced promotion
 5 zone at any given selection board convened under
 6 section 251 of this title.”;

7 (3) in section 259(a), by inserting after “whom
 8 the board” the following: “, giving due consideration
 9 to the needs of the Coast Guard for officers with
 10 particular skills so noted in specific direction fur-
 11 nished to the board by the Commandant under sec-
 12 tion 258 of this title,”; and

13 (4) in section 260(b), by inserting after “quali-
 14 fied for promotion” the following: “to meet the
 15 needs of the service (as noted in specific direction
 16 furnished the board by the Commandant under sec-
 17 tion 258 of this title)”.

18 **SEC. 305. COAST GUARD ACQUISITION WORKFORCE EXPE-**
 19 **DITED HIRING AUTHORITY.**

20 (a) IN GENERAL.—For purposes of sections 3304,
 21 5333, and 5753 of title 5, United States Code, the Com-
 22 mandant may—

23 (1) designate any category of acquisition posi-
 24 tions within the Coast Guard as shortage category
 25 positions; and

1 (2) use the authorities in such sections to re-
2 cruit and appoint highly qualified persons directly to
3 positions so designated.

4 (b) LIMITATION.—The Commandant may not ap-
5 point a person to a position of employment under this sub-
6 section after September 30, 2012.

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